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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,944	09/22/2003	Sanjay Rastogi	P03118	1627

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EXAMINER
VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
02/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/667,944	RASTOGI ET AL.	
	Examiner	Art Unit	
	Mathieu D. Vargot	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,7,9,10,12,25,26,29,36-38,44,46-57 and 59-62* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,7,9,10,12,25,26,29,36-38,44,46-57 and 59-62* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 7, 9, 10, 12, 25, 26, 29, 36-38, 44, 46-57 and 59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wrue et al essentially for reasons of record noting the following.

Applicant has amended the claims to recite that the hydrated lenses removed from the mold are bifocal lenses and that the nozzle is made of rubber. First of all, column 5, lines 40-45 of Wrue et al disclose that a "range of lenses with different **power corrections** can be hydrated" (emphasis added) and that the lenses "were consistently removed from the mold without damage", thus leading one of ordinary skill in the art to believe that the process of the applied reference would effectively remove hydrated bifocal lenses. Concerning the rubber nozzle, it is noted that vacuum lines and vacuum nozzles are typically made of rubber so that they are flexible and have tensile strength. It would have been obvious to one of ordinary skill in the art to have modified the process of Wrue et al by making the nozzle taught therein out of rubber for the increased flexibility such would have afforded to the nozzle. Remember that the mold of Wrue et al is allowed—in fact, apparently forced—to rock during the removal of the lens. The rocking of the mold would clearly move the lens—which is attached to the mold—in directions tangential to the surface of the lens and hence a rubber nozzle, with its flexibility, would be beneficially used in Wrue et al.

2.Applicant's arguments filed November 12, 2007 have been fully considered but they are not persuasive. Applicant submits that the claims are allowable over Wrue et al for two reasons and it is respectfully believed that such reasons are simply not probative at this point. For one thing, the fact that the mold rocks in Wrue et al would be reason enough to employ a rubber nozzle, or a nozzle made of a material that would adhere to the lens for the same reason as the instant. Indeed, even if the nozzle motion taught in Wrue et al is vertically up and down, there would clearly be some lateral motion between the nozzle and the lens when the mold rocks to the sides during the removal. It is indeed this rocking motion that renders the instant tangential and rotational motion obvious, in that such relative motion would be known to those of ordinary skill in the art as ways to break the adherence of the lens to the mold. Also, it is clear that Wrue et al envisions removing bifocal lenses. Applicant appears to be arguing unexpected benefits for the instant invention. It is again reiterated that such is not persuasive given the record up to this point. For one thing, the instant specification (page 6, lines 11-12) discloses that "a previously-used baseline protocol for hydration resulted in poor pick yields for low minus sku bifocal lenses—66% to 70%" and this is argued by applicant as being the "rocking" method of Wrue et al. However, there is no data showing the results and it is not clear from the specification exactly what such "previously-used baseline protocol" entails. Also, there is no data to show that bifocal lenses with an sku of greater than –3.00D had pick yields of less than 60% as subsequently argued by applicant. From the disclosure of Wrue et al, it would be assumed that bifocal lenses of "different power corrections" would have been readily removed from the mold. If indeed

the sku value is critical, then this needs to be in the claims--none of the independent claims even recite the particular sku value for the lens. As the record stands, there simply is insufficient evidence to rebut a prime facie case of obviousness.

3.**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
February 2, 2008

M. Vargot

Mathieu D. Vargot
Primary Examiner
Art Unit 1791

2/2/08